



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

Customer Assistance

IN THE MATTER OF AN ADMINISTRATIVE
INVESTIGATION INTO ALLEGED VIOLATIONS) Consent Order
OF LAW AND ADMINISTRATIVE REGULATIONS)
BY ACN COMMUNICATIONS SERVICES, INC.) DOCKET NO: TC04101147S

(SERVICE LIST ATTACHED)

BY THE BOARD:

WHEREAS, this matter was commenced by the New Jersey Board of Public Utilities ("Board" or "BPU") as an administrative investigation into allegations of violations of the New Jersey Public Utilities Laws, N.J.S.A. 48:2-1 et seq. ("the Public Utilities Laws") and the regulations adopted pursuant to the Public Utilities Laws, and the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("the Consumer Fraud Act") and administrative rules adopted pursuant to the Consumer Fraud Act, by ACN Communications Services, Inc. (ACN") a public utility doing business in the State of New Jersey; and

WHEREAS, an investigation was initiated by the Board's staff on January 29, 2004, in response to allegations of slamming, as the result of a complaint received. ACN has cooperated in this investigation, conducted by Board staff in response to the alleged slamming violations, and ACN and the Board's staff have engaged in discussions and have exchanged information regarding this matter; and

WHEREAS, the parties desire to achieve a resolution to this matter without resort to litigation.

NOW THEREFORE, and in consideration of the terms and conditions herein it is on this day of May 5, 2005, the parties HEREBY STIPULATE AND AGREE that:

1. As used in this Order, "ACN" shall mean ACN Communications Services, Inc. and any of its principals, directors, officers, parent corporations, subsidiaries, affiliates, shareholders, employees, Representatives, agents, assigns, successors, independent contractors/third party distributors, any trustee in bankruptcy or other trustee, and/or any receiver appointed pursuant to proceedings in law or equity

2. This Consent order shall fully and finally resolve the claim or allegation that a Letter of Agency was submitted by ACN to the BPU with regard to the transfer of the individual complainant's account in a manner inconsistent with N.J.A.C. 14:10-11.3(b)(1)(ii). No other claims are resolved through this matter.

3. ACN shall comply with all effective and applicable New Jersey statutes, laws, rules and regulations as now constituted or as may hereafter be adopted or amended regarding telecommunication service providers, including but not limited to the Consumer Fraud Act N.J.S.A. 56:8-1 et seq. and associated regulations and the Public Utilities Laws, N.J.S.A. 48:2-1 et seq. and associated regulations, including N.J.A.C. 14:4-10:11 et seq. ACN shall require compliance with such laws and regulations by its employees and/or agents, representatives and independent contractors engaged in marketing to customers in New Jersey.

4. ACN will continue to enforce or immediately implement the dismissal of any independent representatives that does not comply with the federal and state slamming laws.

5. During ACN's four national meetings, held annually, it will strongly emphasize its "Zero Tolerance" policy, which also include ensuring that every Letter of Authorization is not complete unless it has the signature from the customer and all necessary information as required by federal and state laws.

6. Within thirty (30) days of execution of this Consent Order, ACN shall provide the BPU with an acknowledgement that each current ACN employee with direct responsibility for sales or marketing in the State of New Jersey as well as any employees involved in the third party verification process has received a copy of this Consent Order. ACN shall have a continuing obligation to ensure that all future ACN employees with direct responsibility for sales or marketing in the State of New Jersey are familiar with the requirements set forth in this Consent Order and the applicable laws, rules and regulations and train their staff regarding the same.

7. Within thirty (30) days of the execution of this Consent Order, ACN shall identify to the BPU the name, title, telephone number and address of the senior management-level corporate official designated by ACN to assume responsibility for the proper implementation and full compliance with this Consent Order. From the date of the Consent Order, any change of that responsible corporate officer shall be provided in writing to the BPU within 10 days of any such change.

8. In the interest of resolving the issues raised in the investigation and in settlement of this matter, ACN agrees to pay the State of New Jersey the sum of five thousand dollars (\$5,000). The payment shall be made payable to "Treasurer, State of New Jersey" and delivered to the following address:

Kristi Izzo, Secretary
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

9. This settlement does not involve the New Jersey Division of Consumer Affairs and in no way impacts upon the rights of that Division, including the right for it to conduct an investigation to determine whether this or any other action on the part of ACN are in violation of the Consumer Fraud Act.

10. If, after signing this Consent Order, ACN engages in any acts or practices that constitute a violation of this Order or of the laws and regulations cited herein, ACN may be subject to the imposition of enhanced penalties set forth in N.J.S.A. 56:8-13 and 48:3-83.

EFFECTS OF AGREEMENT

11. ACN shall not represent or imply that any business practice or other practice hereinafter used or engaged in by ACN has been required or approved, in whole or in part, by the State of New Jersey or any of the State's agencies or agents or subdivisions.

12. The party acknowledges that for purposes of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions herein.

13. This Consent Order constitutes the entire agreement between the parties hereto and shall bind the parties hereto and their respective officers, directors, agents, representatives, employees, parent corporations, subsidiaries, affiliates, successors and assigns.

14. It is further understood and agreed that nothing contained in this Consent Order shall be construed to limit or affect the rights of any persons or entities who are not parties to this agreement with respect to any of the matters contained herein.

15. Nothing contained herein shall in any manner or fashion be construed to limit or affect and position that the parties may take in any future or pending litigation not specifically encompassed herein.

16. The parties represent that an authorized representative of each has signed this Consent Order with full knowledge, that the agreement is a negotiated compromise resolution, understanding and acceptance of its terms and that this person has done so with authority to legally bind the respective party.

17. No signatory shall waive its litigation rights in the event the stipulation is not approved by the Board as submitted.

18. Any and all notices direct to the Board of Public Utilities shall be sent to:

- a. Kristi Izzo, Secretary
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102
- b. Kent Papsun
Director, Division of Customer Assistance
Board of Public Utilities
2 Gateway Center, 13th Floor
Newark, New Jersey 07102
- c. Robert T. Stephan, LLC
b/h ACN Communications Service, Inc.
14243 W. 84th Terrace
Lenexa, Kansas 66215

19. Any amendments to this Consent Order must be in writing and signed by all parties to be bound. The stipulation may not be amended except by written instrument executed by each signatory party.

20. This Consent Order may be signed in counter parts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument only when affixed together.

21. If any provision of this Consent Order or the application thereof or circumstances shall to any extent be invalid or unenforceable, the remainder of the Consent Order or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision of this Consent Order shall be valid and enforced to the fullest extent permitted by law.

DATED: 5/25/05

ACN COMMUNICATIONS

By: Robert Stephan
Robert Stephan, LLC

DATED: 5/25/05

BOARD OF PUBLIC UTILITIES
BY:

Jeanne M. Fox
JEANNE M. FOX
PRESIDENT

Frederick F. Butler
FREDERICK F. BUTLER
COMMISSIONER

Connie O. Hughes
CONNIE O. HUGHES
COMMISSIONER

Jack Alter
JACK ALTER
COMMISSIONER

ATTEST:
Kristi Izzo
KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities
Kristi Izzo

IN THE MATTER OF AN ADMINISTRATIVE INVESTIGATION INTO
ALLEGED VIOLATIONS OF LAW AND ADMINISTRATIVE
REGULATIONS BY ACN COMMUNICATIONS SERVICES, INC.
DOCKET NO: TC04101147S

SERVICE LIST

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